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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.)
)
JAMES MICHAEL BURGE)
)
)
Defendant.)
_____)

CR No.: 3-08-70181 MAG

**STIPULATION AND ~~PROPOSED~~
ORDER EXCLUDING TIME**

On November 12, 2008, the parties in this case appeared before the Court for a preliminary hearing. The parties requested and the Court agreed to continue the preliminary hearing to November 21, 2008. The parties further stipulated that pursuant to Federal Rule of Criminal Procedure (FRCP) 5.1(d), the time limits set forth in FRCP 5.1(c) be excluded from November 12, 2008, to and including November 21, 2008. The parties agree that – taking into account the public interest in prompt disposition of criminal cases good cause exists for this extension. Defendant also agrees to exclude for this period of time any time limits applicable under Title 18, United States Code, Section 3161. This continuance is the reasonable time

necessary for continuity of defense counsel and effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The parties also agree that the ends of justice served by granting such a continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A).

SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

/s/

DATED: _____

OWEN P. MARTIKAN
Assistant United States Attorney

/s/

DATED: _____

PETER GOODMAN
Attorney for James Michael Burge

[PROPOSED] ORDER

For the reasons stated above, the Court finds that an exclusion of time from November 12, 2008, to and including November 21, 2008, is warranted and that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. §3161 (h)(8)(A); FRCP 5.1(d). The failure to grant the requested continuance would deny Mr. Burge continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. See 18 U.S.C. §3161(h)(8)(B)(iv).

SO ORDERED.

DATED: November 19, 2008


HON. BERNARD ZIMMERMAN
United States Magistrate Judge